

State of Arizona
Senate
Forty-fifth Legislature
Second Regular Session
2002

CHAPTER 161

SENATE BILL 1149

AN ACT

AMENDING SECTION 13-3994, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 244, SECTION 1; REPEALING SECTION 13-3994, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 244, SECTION 2; AMENDING TITLE 13, CHAPTER 38, ARTICLE 14, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-3994; AMENDING SECTION 13-4512, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 1999, CHAPTER 255, SECTION 4; AMENDING SECTIONS 36-202.01, 36-206, 36-209 AND 36-503.03, ARIZONA REVISED STATUTES; PROVIDING FOR THE DELAYED REPEAL OF SECTION 13-3994, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 244, SECTION 1 AND THIS ACT; AMENDING LAWS 1999, CHAPTER 255, SECTION 8, AS AMENDED BY LAWS 2001, CHAPTER 244, SECTION 5; AMENDING LAWS 1999, CHAPTER 255, SECTION 9, AS AMENDED BY LAWS 2001, CHAPTER 244, SECTION 6; REPEALING LAWS 2001, CHAPTER 244, SECTION 7; AMENDING LAWS 2001, CHAPTER 244, SECTION 8; RELATING TO THE ARIZONA STATE HOSPITAL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3994, Arizona Revised Statutes, as amended by
3 Laws 2001, chapter 244, section 1, is amended to read:

4 13-3994. Commitment; hearing; jurisdiction; definition

5 A. A person who is found guilty except insane pursuant to section
6 13-502 shall be committed to a secure state mental health facility under the
7 department of health services for a period of treatment.

8 B. If the criminal act of the person committed pursuant to subsection
9 A of this section did not cause the death or serious physical injury of or
10 the threat of death or serious physical injury to another person, the court
11 shall set a hearing date within seventy-five days after the person's
12 commitment to determine if the person is entitled to release from confinement
13 or if the person meets the standards for civil commitment pursuant to title
14 36, chapter 5. The court shall notify the medical director of the mental
15 health facility, the attorney general, the county attorney, the victim and
16 the attorney representing the person, if any, of the date of the hearing.
17 Fourteen days before the hearing the director of the mental health facility
18 shall submit to the court a report addressing the person's mental health and
19 dangerousness.

20 C. At a hearing held pursuant to subsection B of this section:

21 1. If the person proves by clear and convincing evidence that the
22 person no longer suffers from a mental disease or defect and is not
23 dangerous, the court shall order the person's release and the person's
24 commitment ordered pursuant to section 13-502, subsection D shall terminate.
25 Before determining to release a person pursuant to this paragraph, the court
26 shall consider the entire criminal history of the person and shall not order
27 the person's release if the court determines that the person has a propensity
28 to reoffend.

29 2. If the court finds that the person still suffers from a mental
30 disease or defect, may present a threat of danger to self or others, is
31 gravely disabled, is persistently or acutely disabled or has a propensity to
32 reoffend, it shall order the county attorney to institute civil commitment
33 proceedings pursuant to title 36 and the person's commitment ordered pursuant
34 to section 13-502, subsection D shall terminate.

35 D. If the court finds that the criminal act of the person committed
36 pursuant to subsection A of this section caused the death or serious physical
37 injury of or the threat of death or serious physical injury to another
38 person, the court shall place the person under the jurisdiction of the
39 psychiatric security review board. The court shall state the beginning date,
40 length and ending date of the board's jurisdiction over the person. The
41 length of the board's jurisdiction over the person is equal to the sentence
42 the person could have received pursuant to section 13-703, subsection A or
43 section 13-707 or the presumptive sentence the defendant could have received
44 pursuant to section 13-604, section 13-604.01, section 13-701, subsection C,
45 section 13-710 or section 13-1406. In making this determination the court

1 shall not consider the sentence enhancements for prior convictions under
2 section 13-604.

3 E. A person who is placed under the jurisdiction of the psychiatric
4 security review board pursuant to subsection D of this section is not
5 eligible for discharge from the board's jurisdiction until the board's
6 jurisdiction over the person expires.

7 F. A person who is placed under the jurisdiction of the psychiatric
8 security review board pursuant to subsection D of this section is not
9 entitled to a hearing before the board earlier than one hundred twenty days
10 after the person's initial commitment. A request for a subsequent release
11 hearing may be made pursuant to subsection G of this section. After the
12 hearing, the board may take one of the following actions:

13 1. If the psychiatric security review board finds that the person
14 still suffers from a mental disease or defect and is dangerous, the person
15 shall remain committed at the secure state mental health facility.

16 2. If the person proves by clear and convincing evidence that the
17 person no longer suffers from a mental disease or defect and is not
18 dangerous, the psychiatric security review board shall order the person's
19 release. The person shall remain under the jurisdiction of the
20 board. Before determining to release a person pursuant to this paragraph,
21 the board shall consider the entire criminal history of the person and shall
22 not order the person's release if the board determines that the person has
23 a propensity to reoffend.

24 3. If the psychiatric security review board finds that the person
25 still suffers from a mental disease or defect or that the mental disease or
26 defect is in stable remission but the person is no longer dangerous, the
27 board shall order the person's conditional release. The person shall remain
28 under the board's jurisdiction. The board in conjunction with the state
29 mental health facility and behavioral health community providers shall
30 specify the conditions of the person's release. The board shall continue to
31 monitor and supervise a person who is released conditionally. Before the
32 conditional release of a person, a supervised treatment plan shall be in
33 place, including the necessary funding to implement the plan.

34 G. A person who is placed under the jurisdiction of the psychiatric
35 security review board pursuant to subsection D of this section may not seek
36 a new release hearing earlier than twenty months after a prior release
37 hearing, except that the medical director of the state mental health facility
38 may request a new release hearing for a person under the jurisdiction of the
39 psychiatric security review board at any time. The person shall not be held
40 in confinement for more than two years without a hearing before the board to
41 determine if the person should be released or conditionally released.

42 H. At any hearing for release or conditional release pursuant to this
43 section:

44 1. Public safety and protection are primary.

1 2. The applicant has the burden of proof by clear and convincing
2 evidence.

3 I. At least fifteen days before a hearing is scheduled to consider a
4 person's release, or before the expiration of the board's jurisdiction over
5 the person, the state mental health facility or supervising agency shall
6 submit to the psychiatric security review board a report on the person's
7 mental health. The psychiatric security review board shall determine whether
8 to release the person or to order the county attorney to institute civil
9 commitment proceedings pursuant to title 36.

10 J. The procedures for civil commitment govern the continued commitment
11 of the person after the expiration of the jurisdiction of the psychiatric
12 security review board.

13 K. Before a person is released or conditionally released, at least
14 three of the five psychiatric security review board members shall vote for
15 the release or conditional release.

16 L. If at any time while the person remains under the jurisdiction of
17 the psychiatric security review board it appears to the board, the chairman,
18 or the vice-chairman of the board or the medical director of the state mental
19 health facility that the person has failed to comply with the terms of the
20 person's conditional release or that the mental health of the person has
21 deteriorated, the board, OR the chairman, or the vice-chairman of the board
22 for good cause or the medical director of the state mental health facility
23 may order that the person be returned to a secure state mental health
24 facility for evaluation or treatment. A written order of the board, the
25 chairman, or the vice-chairman of the board or the medical director is
26 sufficient warrant for any law enforcement officer to take the person into
27 custody and to transport the person accordingly. Any sheriff or other peace
28 officer shall execute the order and shall immediately notify the board of the
29 person's return to the facility. Within twenty days after the person's
30 return to a secure state mental health facility the board shall conduct a
31 hearing and shall give notice within five days before the hearing of the time
32 and place of the hearing to the person, the victim, the attorney representing
33 the person, the county attorney and the attorney general.

34 M. The director of a facility that is providing treatment to a person
35 on conditional release or any other person who is responsible for the
36 supervision of the person may take the person or request that the person be
37 taken into custody if there is reasonable cause to believe that the person's
38 mental health has deteriorated to the point that the person's conditional
39 release should be revoked and that the person is in need of immediate care,
40 custody or treatment or that deterioration is likely because of noncompliance
41 with a treatment program. A person who is taken into custody pursuant to
42 this subsection shall be transported immediately to a secure state mental
43 health facility and shall have the same rights as any person appearing before
44 the psychiatric security review board.

1 N. Before the initial hearing or any other hearing before the
2 psychiatric security review board on the release or conditional release of
3 the person, the person, the attorney who is representing the person and the
4 attorney general or county attorney who is representing the state may choose
5 a psychiatrist licensed pursuant to title 32, chapter 13 or 17 or a
6 psychologist licensed pursuant to title 32, chapter 19.1 to examine the
7 person. All costs in connection with the examination shall be approved and
8 paid by the county of the sentencing court. The written examination results
9 shall be filed with the board and shall include an opinion as to:

10 1. The mental condition of the person.

11 2. Whether the person is dangerous.

12 O. Notwithstanding subsection N of this section, the board or the
13 chairman of the board for good cause may order an independent mental health
14 evaluation by a psychiatrist licensed pursuant to title 32, chapter 13 or 17
15 or a psychologist licensed pursuant to title 32, chapter 19.1. The written
16 examination results shall be filed with the board pursuant to subsection N
17 of this section.

18 P. If a person is found guilty except insane pursuant to section
19 13-502, the department of health services shall assume custody of the person
20 within ten days after receiving the order committing the person pursuant to
21 subsection A of this section. THE ARIZONA STATE HOSPITAL SHALL COLLECT
22 CENSUS DATA FOR GUILTY EXCEPT INSANE TREATMENT PROGRAMS TO ESTABLISH MAXIMUM
23 CAPACITY AND THE ALLOCATION FORMULA REQUIRED PURSUANT TO SECTION 36-206,
24 SUBSECTION D. If the Arizona state hospital reaches its licensed FUNDED
25 capacity for either or both adult male or adult female forensic programs, the
26 department of health services may defer the admission of the person found
27 guilty except insane for up to an additional twenty days. The department of
28 health services shall reimburse the county for the actual costs of each day
29 the admission is deferred. If the department of health services is not able
30 to admit the person found guilty except insane at the conclusion of the
31 twenty day deferral period, the department of health services shall notify
32 the sentencing court, the prosecutor and the defense counsel of this fact.
33 On receipt of this notification, the prosecutor or the person's defense
34 counsel may request a hearing to determine the likely length of time
35 admission will continue to be deferred and whether any other action should
36 be taken. On receipt of the request for hearing, the court shall set a
37 hearing within ten days.

38 Q. For the purposes of this section, "state mental health facility"
39 means a secure state mental health facility under the department of health
40 services.

41 Sec. 2. Repeal

42 Section 13-3994, Arizona Revised Statutes, as amended by Laws 2001,
43 chapter 244, section 2, is repealed.

1 Sec. 3. Title 13, chapter 38, article 14, Arizona Revised Statutes,
2 is amended by adding section 13-3994, to read:

3 13-3994. Commitment; hearing; jurisdiction; definition

4 A. A PERSON WHO IS FOUND GUILTY EXCEPT INSANE PURSUANT TO SECTION
5 13-502 SHALL BE COMMITTED TO A SECURE STATE MENTAL HEALTH FACILITY UNDER THE
6 DEPARTMENT OF HEALTH SERVICES FOR A PERIOD OF TREATMENT.

7 B. IF THE CRIMINAL ACT OF THE PERSON COMMITTED PURSUANT TO SUBSECTION
8 A OF THIS SECTION DID NOT CAUSE THE DEATH OR SERIOUS PHYSICAL INJURY OF OR
9 THE THREAT OF DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER PERSON, THE COURT
10 SHALL SET A HEARING DATE WITHIN SEVENTY-FIVE DAYS AFTER THE PERSON'S
11 COMMITMENT TO DETERMINE IF THE PERSON IS ENTITLED TO RELEASE FROM CONFINEMENT
12 OR IF THE PERSON MEETS THE STANDARDS FOR CIVIL COMMITMENT PURSUANT TO TITLE
13 36, CHAPTER 5. THE COURT SHALL NOTIFY THE MEDICAL DIRECTOR OF THE MENTAL
14 HEALTH FACILITY, THE ATTORNEY GENERAL, THE COUNTY ATTORNEY, THE VICTIM AND
15 THE ATTORNEY REPRESENTING THE PERSON, IF ANY, OF THE DATE OF THE HEARING.
16 FOURTEEN DAYS BEFORE THE HEARING THE DIRECTOR OF THE MENTAL HEALTH FACILITY
17 SHALL SUBMIT TO THE COURT A REPORT ADDRESSING THE PERSON'S MENTAL HEALTH AND
18 DANGEROUSNESS.

19 C. AT A HEARING HELD PURSUANT TO SUBSECTION B OF THIS SECTION:

20 1. IF THE PERSON PROVES BY CLEAR AND CONVINCING EVIDENCE THAT THE
21 PERSON NO LONGER SUFFERS FROM A MENTAL DISEASE OR DEFECT AND IS NOT
22 DANGEROUS, THE COURT SHALL ORDER THE PERSON'S RELEASE AND THE PERSON'S
23 COMMITMENT ORDERED PURSUANT TO SECTION 13-502, SUBSECTION D SHALL
24 TERMINATE. BEFORE DETERMINING TO RELEASE A PERSON PURSUANT TO THIS
25 PARAGRAPH, THE COURT SHALL CONSIDER THE ENTIRE CRIMINAL HISTORY OF THE PERSON
26 AND SHALL NOT ORDER THE PERSON'S RELEASE IF THE COURT DETERMINES THAT THE
27 PERSON HAS A PROPENSITY TO REOFFEND.

28 2. IF THE COURT FINDS THAT THE PERSON STILL SUFFERS FROM A MENTAL
29 DISEASE OR DEFECT, MAY PRESENT A THREAT OF DANGER TO SELF OR OTHERS, IS
30 GRAVELY DISABLED, IS PERSISTENTLY OR ACUTELY DISABLED OR HAS A PROPENSITY TO
31 REOFFEND, IT SHALL ORDER THE COUNTY ATTORNEY TO INSTITUTE CIVIL COMMITMENT
32 PROCEEDINGS PURSUANT TO TITLE 36 AND THE PERSON'S COMMITMENT ORDERED PURSUANT
33 TO SECTION 13-502, SUBSECTION D SHALL TERMINATE.

34 D. IF THE COURT FINDS THAT THE CRIMINAL ACT OF THE PERSON COMMITTED
35 PURSUANT TO SUBSECTION A OF THIS SECTION CAUSED THE DEATH OR SERIOUS PHYSICAL
36 INJURY OF OR THE THREAT OF DEATH OR SERIOUS PHYSICAL INJURY TO ANOTHER
37 PERSON, THE COURT SHALL PLACE THE PERSON UNDER THE JURISDICTION OF THE
38 PSYCHIATRIC SECURITY REVIEW BOARD. THE COURT SHALL STATE THE BEGINNING DATE,
39 LENGTH AND ENDING DATE OF THE BOARD'S JURISDICTION OVER THE PERSON. THE
40 LENGTH OF THE BOARD'S JURISDICTION OVER THE PERSON IS EQUAL TO THE SENTENCE
41 THE PERSON COULD HAVE RECEIVED PURSUANT TO SECTION 13-703, SUBSECTION A OR
42 SECTION 13-707 OR THE PRESUMPTIVE SENTENCE THE DEFENDANT COULD HAVE RECEIVED
43 PURSUANT TO SECTION 13-604, SECTION 13-604.01, SECTION 13-701, SUBSECTION C,
44 SECTION 13-710 OR SECTION 13-1406. IN MAKING THIS DETERMINATION THE COURT

1 SHALL NOT CONSIDER THE SENTENCE ENHANCEMENTS FOR PRIOR CONVICTIONS UNDER
2 SECTION 13-604.

3 E. A PERSON WHO IS PLACED UNDER THE JURISDICTION OF THE PSYCHIATRIC
4 SECURITY REVIEW BOARD PURSUANT TO SUBSECTION D OF THIS SECTION IS NOT
5 ELIGIBLE FOR DISCHARGE FROM THE BOARD'S JURISDICTION UNTIL THE BOARD'S
6 JURISDICTION OVER THE PERSON EXPIRES.

7 F. A PERSON WHO IS PLACED UNDER THE JURISDICTION OF THE PSYCHIATRIC
8 SECURITY REVIEW BOARD PURSUANT TO SUBSECTION D OF THIS SECTION IS NOT
9 ENTITLED TO A HEARING BEFORE THE BOARD EARLIER THAN ONE HUNDRED TWENTY DAYS
10 AFTER THE PERSON'S INITIAL COMMITMENT. A REQUEST FOR A SUBSEQUENT RELEASE
11 HEARING MAY BE MADE PURSUANT TO SUBSECTION G OF THIS SECTION. AFTER THE
12 HEARING, THE BOARD MAY TAKE ONE OF THE FOLLOWING ACTIONS:

13 1. IF THE PSYCHIATRIC SECURITY REVIEW BOARD FINDS THAT THE PERSON
14 STILL SUFFERS FROM A MENTAL DISEASE OR DEFECT AND IS DANGEROUS, THE PERSON
15 SHALL REMAIN COMMITTED AT THE SECURE STATE MENTAL HEALTH FACILITY.

16 2. IF THE PERSON PROVES BY CLEAR AND CONVINCING EVIDENCE THAT THE
17 PERSON NO LONGER SUFFERS FROM A MENTAL DISEASE OR DEFECT AND IS NOT
18 DANGEROUS, THE PSYCHIATRIC SECURITY REVIEW BOARD SHALL ORDER THE PERSON'S
19 RELEASE. THE PERSON SHALL REMAIN UNDER THE JURISDICTION OF THE BOARD. BEFORE
20 DETERMINING TO RELEASE A PERSON PURSUANT TO THIS PARAGRAPH, THE BOARD SHALL
21 CONSIDER THE ENTIRE CRIMINAL HISTORY OF THE PERSON AND SHALL NOT ORDER THE
22 PERSON'S RELEASE IF THE BOARD DETERMINES THAT THE PERSON HAS A PROPENSITY TO
23 REOFFEND.

24 3. IF THE PSYCHIATRIC SECURITY REVIEW BOARD FINDS THAT THE PERSON
25 STILL SUFFERS FROM A MENTAL DISEASE OR DEFECT OR THAT THE MENTAL DISEASE OR
26 DEFECT IS IN STABLE REMISSION BUT THE PERSON IS NO LONGER DANGEROUS, THE
27 BOARD SHALL ORDER THE PERSON'S CONDITIONAL RELEASE. THE PERSON SHALL REMAIN
28 UNDER THE BOARD'S JURISDICTION. THE BOARD IN CONJUNCTION WITH THE STATE
29 MENTAL HEALTH FACILITY AND BEHAVIORAL HEALTH COMMUNITY PROVIDERS SHALL
30 SPECIFY THE CONDITIONS OF THE PERSON'S RELEASE. THE BOARD SHALL CONTINUE TO
31 MONITOR AND SUPERVISE A PERSON WHO IS RELEASED CONDITIONALLY. BEFORE THE
32 CONDITIONAL RELEASE OF A PERSON, A SUPERVISED TREATMENT PLAN SHALL BE IN
33 PLACE, INCLUDING THE NECESSARY FUNDING TO IMPLEMENT THE PLAN.

34 G. A PERSON WHO IS PLACED UNDER THE JURISDICTION OF THE PSYCHIATRIC
35 SECURITY REVIEW BOARD PURSUANT TO SUBSECTION D OF THIS SECTION MAY NOT SEEK
36 A NEW RELEASE HEARING EARLIER THAN TWENTY MONTHS AFTER A PRIOR RELEASE
37 HEARING, EXCEPT THAT THE MEDICAL DIRECTOR OF THE STATE MENTAL HEALTH FACILITY
38 MAY REQUEST A NEW RELEASE HEARING FOR A PERSON UNDER THE JURISDICTION OF THE
39 PSYCHIATRIC SECURITY REVIEW BOARD AT ANY TIME. THE PERSON SHALL NOT BE HELD
40 IN CONFINEMENT FOR MORE THAN TWO YEARS WITHOUT A HEARING BEFORE THE BOARD TO
41 DETERMINE IF THE PERSON SHOULD BE RELEASED OR CONDITIONALLY RELEASED.

42 H. AT ANY HEARING FOR RELEASE OR CONDITIONAL RELEASE PURSUANT TO THIS
43 SECTION:

44 1. PUBLIC SAFETY AND PROTECTION ARE PRIMARY.

1 2. THE APPLICANT HAS THE BURDEN OF PROOF BY CLEAR AND CONVINCING
2 EVIDENCE.

3 I. AT LEAST FIFTEEN DAYS BEFORE A HEARING IS SCHEDULED TO CONSIDER A
4 PERSON'S RELEASE, OR BEFORE THE EXPIRATION OF THE BOARD'S JURISDICTION OVER
5 THE PERSON, THE STATE MENTAL HEALTH FACILITY OR SUPERVISING AGENCY SHALL
6 SUBMIT TO THE PSYCHIATRIC SECURITY REVIEW BOARD A REPORT ON THE PERSON'S
7 MENTAL HEALTH. THE PSYCHIATRIC SECURITY REVIEW BOARD SHALL DETERMINE WHETHER
8 TO RELEASE THE PERSON OR TO ORDER THE COUNTY ATTORNEY TO INSTITUTE CIVIL
9 COMMITMENT PROCEEDINGS PURSUANT TO TITLE 36.

10 J. THE PROCEDURES FOR CIVIL COMMITMENT GOVERN THE CONTINUED COMMITMENT
11 OF THE PERSON AFTER THE EXPIRATION OF THE JURISDICTION OF THE PSYCHIATRIC
12 SECURITY REVIEW BOARD.

13 K. BEFORE A PERSON IS RELEASED OR CONDITIONALLY RELEASED, AT LEAST
14 THREE OF THE FIVE PSYCHIATRIC SECURITY REVIEW BOARD MEMBERS SHALL VOTE FOR
15 THE RELEASE OR CONDITIONAL RELEASE.

16 L. IF AT ANY TIME WHILE THE PERSON REMAINS UNDER THE JURISDICTION OF
17 THE PSYCHIATRIC SECURITY REVIEW BOARD IT APPEARS TO THE BOARD, THE CHAIRMAN
18 OR VICE-CHAIRMAN OF THE BOARD OR THE MEDICAL DIRECTOR OF THE STATE MENTAL
19 HEALTH FACILITY THAT THE PERSON HAS FAILED TO COMPLY WITH THE TERMS OF THE
20 PERSON'S CONDITIONAL RELEASE OR THAT THE MENTAL HEALTH OF THE PERSON HAS
21 DETERIORATED, THE BOARD, THE CHAIRMAN OR VICE-CHAIRMAN OF THE BOARD FOR GOOD
22 CAUSE OR THE MEDICAL DIRECTOR OF THE STATE MENTAL HEALTH FACILITY MAY ORDER
23 THAT THE PERSON BE RETURNED TO A SECURE STATE MENTAL HEALTH FACILITY FOR
24 EVALUATION OR TREATMENT. A WRITTEN ORDER OF THE BOARD, THE CHAIRMAN OR
25 VICE-CHAIRMAN OF THE BOARD OR THE MEDICAL DIRECTOR IS SUFFICIENT WARRANT FOR
26 ANY LAW ENFORCEMENT OFFICER TO TAKE THE PERSON INTO CUSTODY AND TO TRANSPORT
27 THE PERSON ACCORDINGLY. ANY SHERIFF OR OTHER PEACE OFFICER SHALL EXECUTE THE
28 ORDER AND SHALL IMMEDIATELY NOTIFY THE BOARD OF THE PERSON'S RETURN TO THE
29 FACILITY. WITHIN TWENTY DAYS AFTER THE PERSON'S RETURN TO A SECURE STATE
30 MENTAL HEALTH FACILITY THE BOARD SHALL CONDUCT A HEARING AND SHALL GIVE
31 NOTICE WITHIN FIVE DAYS BEFORE THE HEARING OF THE TIME AND PLACE OF THE
32 HEARING TO THE PERSON, THE VICTIM, THE ATTORNEY REPRESENTING THE PERSON, THE
33 COUNTY ATTORNEY AND THE ATTORNEY GENERAL.

34 M. THE DIRECTOR OF A FACILITY THAT IS PROVIDING TREATMENT TO A PERSON
35 ON CONDITIONAL RELEASE OR ANY OTHER PERSON WHO IS RESPONSIBLE FOR THE
36 SUPERVISION OF THE PERSON MAY TAKE THE PERSON OR REQUEST THAT THE PERSON BE
37 TAKEN INTO CUSTODY IF THERE IS REASONABLE CAUSE TO BELIEVE THAT THE PERSON'S
38 MENTAL HEALTH HAS DETERIORATED TO THE POINT THAT THE PERSON'S CONDITIONAL
39 RELEASE SHOULD BE REVOKED AND THAT THE PERSON IS IN NEED OF IMMEDIATE CARE,
40 CUSTODY OR TREATMENT OR THAT DETERIORATION IS LIKELY BECAUSE OF NONCOMPLIANCE
41 WITH A TREATMENT PROGRAM. A PERSON WHO IS TAKEN INTO CUSTODY PURSUANT TO
42 THIS SUBSECTION SHALL BE TRANSPORTED IMMEDIATELY TO A SECURE STATE MENTAL
43 HEALTH FACILITY AND SHALL HAVE THE SAME RIGHTS AS ANY PERSON APPEARING BEFORE
44 THE PSYCHIATRIC SECURITY REVIEW BOARD.

1 N. BEFORE THE INITIAL HEARING OR ANY OTHER HEARING BEFORE THE
2 PSYCHIATRIC SECURITY REVIEW BOARD ON THE RELEASE OR CONDITIONAL RELEASE OF
3 THE PERSON, THE PERSON, THE ATTORNEY WHO IS REPRESENTING THE PERSON AND THE
4 ATTORNEY GENERAL OR COUNTY ATTORNEY WHO IS REPRESENTING THE STATE MAY CHOOSE
5 A PSYCHIATRIST LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17 OR A
6 PSYCHOLOGIST LICENSED PURSUANT TO TITLE 32, CHAPTER 19.1 TO EXAMINE THE
7 PERSON. ALL COSTS IN CONNECTION WITH THE EXAMINATION SHALL BE APPROVED AND
8 PAID BY THE COUNTY OF THE SENTENCING COURT. THE WRITTEN EXAMINATION RESULTS
9 SHALL BE FILED WITH THE BOARD AND SHALL INCLUDE AN OPINION AS TO:

10 1. THE MENTAL CONDITION OF THE PERSON.

11 2. WHETHER THE PERSON IS DANGEROUS.

12 O. NOTWITHSTANDING SUBSECTION N OF THIS SECTION, THE BOARD OR THE
13 CHAIRMAN OF THE BOARD FOR GOOD CAUSE MAY ORDER AN INDEPENDENT MENTAL HEALTH
14 EVALUATION BY A PSYCHIATRIST LICENSED PURSUANT TO TITLE 32, CHAPTER 13 OR 17
15 OR A PSYCHOLOGIST LICENSED PURSUANT TO TITLE 32, CHAPTER 19.1. THE WRITTEN
16 EXAMINATION RESULTS SHALL BE FILED WITH THE BOARD PURSUANT TO SUBSECTION N
17 OF THIS SECTION.

18 P. FOR THE PURPOSES OF THIS SECTION, "STATE MENTAL HEALTH FACILITY"
19 MEANS A SECURE STATE MENTAL HEALTH FACILITY UNDER THE DEPARTMENT OF HEALTH
20 SERVICES.

21 Sec. 4. Section 13-4512, Arizona Revised Statutes, as amended by Laws
22 1999, chapter 255, section 4, is amended to read:

23 13-4512. Treatment order; commitment

24 A. The court may order a defendant to undergo outpatient competency
25 restoration treatment or may commit the defendant for competency restoration
26 treatment to the Arizona state hospital, subject to funding appropriated by
27 the legislature to the Arizona state hospital for inpatient competency
28 restoration treatment services, or to any other facility that is approved by
29 the court. In determining the type and location of the treatment, the court
30 shall select the least restrictive treatment alternative after considering
31 the following:

32 1. If confinement is necessary for treatment.

33 2. The likelihood that the defendant is a threat to public safety.

34 3. The defendant's participation in and cooperation during an
35 outpatient examination of competency to stand trial conducted pursuant to
36 section 13-4507.

37 4. The defendant's willingness to submit to outpatient competency
38 restoration treatment as a condition of pretrial release, if the defendant
39 is eligible for pretrial release.

40 B. An order entered pursuant to this section shall state if the
41 defendant is incompetent to refuse treatment, including medication, pursuant
42 to section 13-4511.

43 C. A defendant shall pay the cost of inpatient competency restoration
44 treatment unless otherwise ordered by the court. If the court finds the
45 defendant is unable to pay all or a portion of the costs of inpatient

1 treatment, the state shall pay the costs of inpatient competency restoration
2 treatment at the Arizona state hospital that are incurred until:

3 1. Seven days, excluding Saturdays, Sundays, or other legal holidays,
4 after the hospital submits a report to the court stating that the defendant
5 has regained competency or that there is no substantial probability that the
6 defendant will regain competency within twenty-one months after the date of
7 the original finding of incompetency.

8 2. The treatment order expires.

9 3. Seven days, excluding Saturdays, Sundays, or other legal holidays,
10 after the charges are dismissed.

11 D. The county, or the city if the competency proceedings arise out of
12 a municipal court proceeding, shall pay the hospital costs that are incurred
13 after the period of time designated in subsection C of this section and shall
14 also pay for the costs of inpatient competency restoration treatment in COURT
15 APPROVED programs, ~~other than THAT ARE NOT~~ programs at the Arizona state
16 hospital, ~~that are approved by the court.~~

17 E. Payment for the cost of outpatient community treatment shall be the
18 responsibility of the defendant unless:

19 1. The defendant is enrolled in a program which covers the treatment
20 and which has funding available for the provision of treatment to the
21 defendant, and the defendant is eligible to receive the treatment. Defendants
22 in these circumstances may be required to share in the cost of the treatment
23 if cost sharing is required by the program in which the defendant is
24 enrolled.

25 2. The court finds that the defendant is unable to pay all or a
26 portion of treatment costs or that outpatient treatment is not otherwise
27 available to the defendant. For defendants in these circumstances, all or
28 a portion of the costs of outpatient community treatment shall be borne by
29 the county or the city if the competency proceedings arise out of a municipal
30 court proceeding.

31 F. A treatment order issued pursuant to this section is valid for one
32 hundred eighty days or until one of the following occurs:

33 1. The treating facility submits a report that the defendant has
34 regained competency or that there is no substantial probability that the
35 defendant will regain competency within twenty-one months after the date of
36 the original finding of incompetency.

37 2. The charges are dismissed.

38 3. The maximum sentence for the offense charged has expired.

39 4. A qualified physician who represents the Arizona state hospital
40 determines that the defendant is not suffering from a mental illness and is
41 competent to stand trial.

42 ~~G. The legislature shall identify in its general appropriations act~~
43 ~~or other legislation the funded capacity at the Arizona state hospital SHALL~~
44 COLLECT CENSUS DATA for adult restoration to competency treatment PROGRAMS
45 TO ESTABLISH MAXIMUM CAPACITY AND THE ALLOCATION FORMULA REQUIRED PURSUANT

1 TO SECTION 36-206, SUBSECTION D. ~~In addition to the maximum capacity, the~~
2 ~~general appropriations act or other legislation shall also separately~~
3 ~~identify the funded capacity for adult men and adult women.~~ The Arizona
4 state hospital or the department of health services is not required to
5 provide restoration to competency treatment that exceeds the funded
6 capacity. If the Arizona state hospital reaches its funded capacity in
7 either or both the adult male or adult female restoration to competency
8 treatment programs, the superintendent of the state hospital shall establish
9 a waiting list for admission based on the date of the court order issued
10 pursuant to this section.

11 Sec. 5. Section 36-202.01, Arizona Revised Statutes, is amended to
12 read:

13 36-202.01. Admission of juveniles to state hospital

14 ~~The legislature shall identify in its general appropriations act or~~
15 ~~other legislation the funded capacity at the Arizona state hospital SHALL~~
16 COLLECT CENSUS DATA for the JUVENILE treatment of juveniles PROGRAMS TO
17 ESTABLISH MAXIMUM CAPACITY AND THE ALLOCATION FORMULA REQUIRED PURSUANT TO
18 SECTION 36-206, SUBSECTION D. ~~In addition to the maximum capacity, the~~
19 ~~general appropriations act or other legislation shall also separately~~
20 ~~identify the funded capacity for juvenile males and juvenile females.~~ The
21 Arizona state hospital is not required to provide services to juveniles that
22 exceed the funded capacity. If the Arizona state hospital reaches its funded
23 capacity for either or both juvenile males or juvenile females JUVENILES, the
24 superintendent of the state hospital shall establish a waiting list for
25 admission based on the date of the commitment or treatment order.

26 Sec. 6. Section 36-206, Arizona Revised Statutes, is amended to read:

27 36-206. Duties of superintendent; deputy; clinical assessment

28 A. ~~The deputy director shall have HAS~~ charge of the state hospital and
29 the superintendent shall supervise and direct its activities, subject to the
30 provisions of law ~~and the rules and regulations~~ and approval of the deputy
31 director. The superintendent ~~shall be~~ IS directly responsible to the deputy
32 director for carrying out the purposes for which the hospital is
33 maintained. He ~~SUBJECT TO THE APPROVAL OF THE DEPUTY DIRECTOR, THE~~
34 SUPERINTENDENT may deputize, ~~in writing, subject to the approval of the~~
35 ~~deputy director,~~ any qualified officer of the state hospital to do or perform
36 ~~in his stead~~ any act the superintendent is empowered to do or charged with
37 the responsibility of doing by law.

38 B. The deputy director ~~shall~~ in December each year ~~make an~~ SHALL
39 estimate of the probable daily per capita cost of treatment and maintenance
40 of each category of patients for the next ensuing year as determined in
41 accordance with standard accounting practices. A statement of the estimate
42 shall be provided to the director ~~of the department~~ in January of the
43 following year.

44 C. The superintendent, on request, shall provide to the deputy
45 director a clinical assessment of the state hospital's programs.

1 D. ON OR BEFORE AUGUST 1 OF EACH YEAR, THE DEPUTY DIRECTOR SHALL
2 ESTABLISH MAXIMUM FUNDED CAPACITY AND A PERCENTAGE ALLOCATION FORMULA FOR
3 FORENSIC AND CIVIL BED CAPACITY AT THE ARIZONA STATE HOSPITAL BASED ON CENSUS
4 DATA COLLECTED PURSUANT TO SECTIONS 13-3994, 13-4512, 36-202.01 AND
5 36-503.03. THE DEPUTY DIRECTOR SHALL NOTIFY THE GOVERNOR, THE PRESIDENT OF
6 THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE CHAIRMAN OF
7 EACH COUNTY BOARD OF SUPERVISORS OF THE FUNDED CAPACITY AND ALLOCATION
8 FORMULA FOR THE CURRENT FISCAL YEAR.

9 Sec. 7. Section 36-209, Arizona Revised Statutes, is amended to read:
10 36-209. Reports by superintendent and deputy director

11 A. At such time as the deputy director designates, the superintendent
12 shall submit to the deputy director a report of the activities of the state
13 hospital during the preceding fiscal year, including:

14 1. The number of patients received, conditionally discharged and
15 discharged and voluntary patients treated.

16 2. Methods of treatment used and the results.

17 3. The total number, including the number of such persons who were
18 committed on a voluntary and involuntary basis, of seriously mentally ill
19 patients as defined in section 36-550 and the place to which each person was
20 discharged.

21 4. CENSUS DATA FOR TREATMENT PROGRAMS PURSUANT TO SECTIONS 13-3994,
22 13-4512, 36-202.01 AND 36-503.03.

23 ~~4.~~ 5. A complete employment and personnel record.

24 ~~5.~~ 6. The condition of existing equipment.

25 ~~6.~~ 7. Recommendations for improvement of the institution.

26 ~~7.~~ 8. Other matters required by the deputy director or deemed
27 advisable by the superintendent to present a complete description of the
28 condition and activities of the hospital.

29 B. Not later than the fifteenth day of each month the deputy director
30 shall prepare in duplicate a financial statement of the affairs of the state
31 hospital, including:

32 1. The amounts appropriated for the current fiscal year for operation,
33 maintenance and improvement.

34 2. The amount expended during the preceding calendar month.

35 3. The balance on hand.

36 4. The estimated expenditures for the current month.

37 5. An inventory report.

38 C. The original report and statements required by this section shall
39 be filed with and retained as records of the deputy director and duplicates
40 filed with the director of the department of administration.

41 D. At such time as the deputy director designates, the superintendent
42 shall submit to the deputy director a financial statement of the affairs of
43 the state hospital during the preceding fiscal year in a form prescribed by
44 the director of the department of administration.

1 E. By October 1 of each year, the deputy director, with the approval
2 of the director, shall submit to the governor a comprehensive report of the
3 activities of the state hospital during the preceding fiscal year, which
4 shall include the annual reports of the superintendent, and shall contain:

5 1. An account of the work done.

6 2. Recommendations for improvements.

7 3. Financial statements which shall clearly reflect the origin and
8 disposition of all funds MONIES which have come into the hands of the deputy
9 director or an employee through appropriations or otherwise.

10 F. The deputy director, with the approval of the director, shall make
11 such supplemental reports as the governor or the legislature requests.

12 G. The annual report shall be published for the information of the
13 public and five copies shall be delivered to the chief clerk of the house of
14 representatives and the secretary of the senate, respectively, who shall keep
15 them on file for the use of the members of each house.

16 Sec. 8. Section 36-503.03, Arizona Revised Statutes, is amended to
17 read:

18 36-503.03. Civil commitment treatment population; cap

19 ~~The legislature shall identify in the general appropriations act or~~
20 ~~other legislation the funded capacity at the Arizona state hospital SHALL~~
21 ~~COLLECT CENSUS DATA for adult civil commitment treatment and shall separately~~
22 ~~identify the funded capacity for adult men and adult women PROGRAMS TO~~
23 ~~ESTABLISH MAXIMUM CAPACITY AND THE ALLOCATION FORMULA REQUIRED BY SECTION~~
24 ~~36-206, SUBSECTION D. The Arizona state hospital or the department of health~~
25 ~~services is not required to provide civil commitment treatment that exceeds~~
26 ~~the funded capacity. If the Arizona state hospital reaches its funded~~
27 ~~capacity in either or both the adult male or adult female civil commitment~~
28 ~~treatment programs, the superintendent of the state hospital shall establish~~
29 ~~a waiting list for admission based on the date of the court order issued~~
30 ~~pursuant to this section.~~

31 Sec. 9. Delayed repeal

32 Section 13-3994, Arizona Revised Statutes, as amended by Laws 2001,
33 chapter 244, section 1 and this act, is repealed from and after June 30,
34 2004.

35 Sec. 10. Laws 1999, chapter 255, section 8, as amended by Laws 2001,
36 chapter 244, section 5, is amended to read:

37 Sec. 8. Delayed repeal

38 A. Section 36-202.01, Arizona Revised Statutes, is repealed from and
39 after June 30, 2002 2004.

40 B. Section 7 of this act, relating to the restoration to competency
41 program study, is repealed from and after December 31, 2000.

1 Sec. 11. Laws 1999, chapter 255, section 9, as amended by Laws 2001,
2 chapter 244, section 6, is amended to read:

3 Sec. 9. Effective date

4 Section 13-4512, Arizona Revised Statutes, as amended by Laws 1999,
5 chapter 255, section 5 and LAWS 2001, CHAPTER 244, section 3 ~~of this act~~, is
6 effective from and after June 30, ~~2002~~ 2004.

7 Sec. 12. Effective date

8 Section 13-3994, Arizona Revised Statutes, as added by section 3 of
9 this act, is effective from and after June 30, 2004.

10 Sec. 13. Repeal

11 Laws 2001, chapter 244, section 7 is repealed.

12 Sec. 14. Laws 2001, chapter 244, section 8 is amended to read:

13 Sec. 8. Delayed repeal

14 Section 36-503.03, Arizona Revised Statutes, ~~as added by this act~~, is
15 repealed from and after June 30, ~~2002~~ 2004.

16 Sec. 15. Retroactivity

17 This act applies retroactively to from and after June 30, 2002.

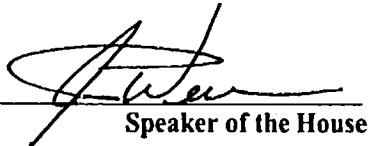
APPROVED BY THE GOVERNOR MAY 6, 2002.

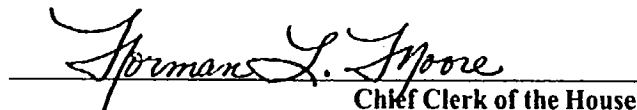
FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2002.

Passed the House April 22, 20 02,

by the following vote: 52 Ayes,

4 Nays, 4 Not Voting

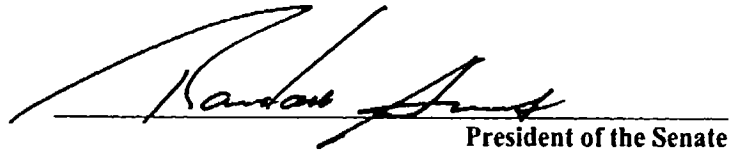

Speaker of the House

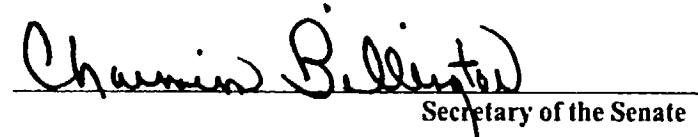

Chief Clerk of the House

Passed the Senate March 12, 20 02,

by the following vote: 27 Ayes,

0 Nays, 3 Not Voting


President of the Senate


Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

~~_____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

Approved this _____ day of

~~_____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

S.B. 1149

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

~~this _____ day of _____, 20____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 30, 2002

by the following vote: 28 Ayes,

0 Nays, 2 Not Voting

Randall Stewart
President of the Senate

Charmine Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

30 day of April, 2002

at 12:48 o'clock P M.

Sandra Ham
Secretary to the Governor

Approved this 6th day of

May, 2002,

at 3:45 o'clock P M.

Janice Lee Hull
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7 day of May, 2002

at 3:13 o'clock P M.

Betsy Bayless
Secretary of State